

REMARKS

The rejections of:

Claims 1, 2 and 5 under 35 U.S.C. § 102(b) as anticipated by U.S. 6,218,558 B1;

Claims 1, 2, 15 and 20 under 35 U.S.C. § 102(e) as anticipated by U.S. 6,344,530 B2;

and

Claims 1, 2 and 10 under 35 U.S.C. § 102(b) as anticipated by Spaleck et al, *Journal of Molecular Catalysis A: Chemical*, Vol. 128, pp. 279-287 (1998),

are all respectfully traversed.

All of the present claims contain the limitations at least of Claim 4, not subject to these rejections. Accordingly, it is respectfully requested that these rejections be withdrawn.

The provisional rejection of Claims 1-14 under the judicially created doctrine of obviousness-type double patenting over Claims 24-26 of copending application No. 10/210,394 (copending application), is respectfully traversed. As of the most recent amendment in the copending application, the pending claims therein require that at least one of the two R₁ groups be a substituted 2-furyl group or a substituted 2-thienyl group. In the present claims, on the other hand, no heterocyclic group is present at any position of the indenyl ring. Thus, there is no disclosure or suggestion in the claims of the copending application to replace the substituted 2-furyl group or substituted 2-thienyl group therein with any of the non-heterocyclic groups present in the corresponding position of the present claims. Accordingly, it is respectfully requested that this provisional rejection be withdrawn.

Applicants note that the copending application was published as US 2003/0149200 A1, indicating a filing date in the United States of August 2, 2002. The US publication is available as prior art under 35 U.S.C. 102(e)(1). It is also believed that this subject matter was first published in Germany on April 17, 2003. The German publication is available as prior art under 35 U.S.C. 102(a). Thus, the earliest prior art date of this subject matter is

August 2, 2002. Nevertheless, it is submitted that this subject matter does not render the presently-claimed invention unpatentable, since this subject matter requires that certain groups be a 2-furyl, substituted 2-furyl, 2-thienyl, substituted 2-thienyl, 2-furfuryl, or substituted 2-furfuryl, group, and at least for this reason, does not suggest the presently-claimed invention.

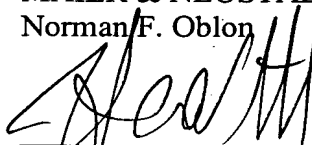
The rejection of Claim 26 under 35 U.S.C. § 112, second paragraph, is respectfully traversed. Indeed, the rejection is now moot in view of the above-discussed amendment. Accordingly, it is respectfully requested that it be withdrawn.

The objection to Claims 27-32 as being in improper multiple dependency form, is respectfully traversed. The objection is now moot in view of the above-discussed amendment. Accordingly, it is respectfully requested that it be withdrawn.

Applicants gratefully acknowledge the Examiner's indication of allowability of Claims 16-19 and 21-25. Nevertheless, Applicants respectfully submit that all of the presently-pending claims in this application are now in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Harris A. Pitlick
Registration No. 38,779

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 06/04)